

Title	Facsimile Signatures on Stipulations for Extension of Time to File Appellate Briefs and Simplified Certification of Delivery to Client (amend Cal. Rules of Court, rules 15(b) & 45(f))
Summary	The proposed amendments to rules 15(b) and 45(f) would allow facsimile signatures of all but one party to a stipulation for extension of time in a civil appeal and would permit counsel in civil cases to certify in the application or stipulation for extension of time, instead of in the attached proofs of service, that they have delivered a copy of the application or stipulation to their clients.
Source	Appellate Advisory Committee Justice Joyce L. Kennard, Chair
Staff	Heather Anderson, Committee Counsel, 415-865-7691, heather.anderson@jud.ca.gov
Discussion	<p>Existing rule 15(a) establishes time requirements for filing appellants' and respondents' briefs in civil cases. The rule also permits the parties to stipulate to extensions of time to file their briefs if their stipulations are filed before the end of the period sought to be extended. (Rule 15(b).)</p> <p>Counsel for a party who wants to extend a deadline under rule 15(b) by stipulation must—as a practical matter—obtain the consent of counsel for all other parties to the appeal, prepare a stipulation to be signed by all of them, and file it before the end of the period he or she wants to extend. Currently, the stipulation filed with the court must contain the original signatures of all counsel of record. It is often difficult to collect all of these signatures in time to file the stipulation before expiration of the deadline. Even if successful, the process can be expensive, often involving the use of overnight mail or messenger services.</p> <p><i>Amendment to rule 15(b)</i></p> <p>This proposal would amend rule 15(b) to permit facsimile signatures of all counsel but one on stipulations for extensions of time and would thus reduce the time and expense necessary to obtain original signatures of all parties to an agreed extension. Under rule 15(b)(1) as thus amended, an attorney preparing a stipulation could fax it to all other counsel, obtain their signatures by return fax, assemble the faxed signature pages, add his or her own original signature, and then file the</p>

stipulation. A process that might take a week or more under the present rule could be completed in less than a day at virtually no cost.

Amendment to rule 45(f)

Existing rule 45(f) requires counsel in civil cases to deliver to their clients copies of applications or stipulations for extensions of time to prepare the record or to file briefs, and to attach proof they have done so to their applications or stipulations. In the case of an application, this proof usually takes the form of a proof of service similar to those used to show service on opposing counsel. However, in the case of a stipulation, each attorney must deliver a copy of the stipulation to his or her own client, prepare a proof of delivery, and deliver the proof to the attorney seeking the extension, for attachment to the original stipulation.

The proposed amendment to rule 45(f) would allow the parties to an application or stipulation for extension of time to certify in the body of the document that they have delivered copies of it to their clients. This would eliminate the need to collect proofs of delivery from one or more other parties to an application or stipulation and would thus facilitate the filing of stipulations using the facsimile signature procedure that would be allowed under the proposed amendment to rule 15(b).

Attachments

Effective January 1, 2003, rules 15 and 45 of the California Rules of Court would be amended to read:

Rule 15. Service and filing of briefs

(a) * * *

(b) **Extensions of time**

(1) The parties may extend each period under (a) by up to 60 days by filing one or more stipulations in the reviewing court before the brief is due. A stipulation is effective on filing. Stipulations must be signed by all parties and be accompanied by a proof of service on all parties. The original signature of at least one party must appear on the stipulation filed in the reviewing court; the signatures of the other parties may be in the form of facsimile copies of the stipulation signed by the parties and attached to the filed stipulation. The reviewing court may not shorten a stipulated extension.

(2)–(3) * * *

(c)–(e) * * *

Rule 45. Extension and shortening of time

(a)–(e) * * *

(f) **[Notification to client]** Counsel in civil cases ~~shall~~ must mail or otherwise deliver to the party represented a copy of each stipulation or application for additional time for a step in the preparation of the record or for filing briefs, and affix evidence of doing so to the application or stipulation or certify in the stipulation or application that they have done so. In class actions, delivering a copy to one represented party is adequate. The evidence or certification of mailing or other delivery need not state the address of ~~the~~ any party to whom copies were sent.